



**Department of Defense
National Security Personnel System
Proposed Regulations**

**Overview
February 10, 2005**



Flexibility – Accountability – Excellence



www.cpms.osd.mil/nsps

- November 2003, Congress granted DoD broad authority to establish a new human resources management system to support its critical national security mission
- In early 2004, DoD established a program office (based on acquisition management model) to oversee design and implementation, with senior leadership oversight and guidance, and partnership with OPM
- DoD and OPM convened six design working groups to develop options for senior leadership consideration, with input from numerous stakeholders, including employees, unions, managers, public interest groups, and senior leaders
- Senior leadership has reviewed options and recommended a proposed system design; Secretary Rumsfeld and OPM Director James approved proposed NSPS regulations, issued in the Federal Register for public review and comment

DESIGN PROCESS HIGHLIGHTS

Working Groups included over 100 participants from DoD and OPM, including HR experts, military members, line managers, and functional area experts (EEO, labor relations, legal, comptroller)

Conducted over 100 Focus Groups and 50 Town Hall meetings worldwide to gather input from employees, supervisors, union officials, and HR practitioners

Reviewed and considered data and reports from existing alternative personnel systems, including DoD demonstration projects and other Federal agencies

Held several meetings with DoD employee unions (over 40 labor organizations) to share interests and concerns, discuss potential design options, and gather input for system design

- Current system is inadequate to manage DoD civilian personnel in today's national security environment
 - Hiring is too slow; adversely affects our ability to attract and retain high quality talent
 - Current pay system results in outstanding performers being paid the same as poor performers
 - Rigid, inflexible rules hinder DoD's ability to act without delay to meet mission needs and manage from "total force" perspective
- DoD has over twenty years of successful experience with testing personnel flexibilities – it is now time to expand those flexibilities to the rest of the Department
- DoD needs a flexible, agile HR system to meet the demands of a dynamic national security mission, while preserving the core, enduring values of the civil service



Design Principles & Operational Requirements

Guiding Principles

1. **Put mission first – support National Security goals and strategic objectives**
2. **Respect the individual; protect rights guaranteed by law**
3. **Value talent, performance, leadership and commitment to public service**
4. **Be flexible, understandable, credible, responsive, executable**
5. **Ensure accountability at all levels**
6. **Balance HR interoperability with unique mission requirements**
7. **Be competitive and cost effective**

Key Performance Parameters

- **High Performing:** Employees/supervisors are compensated/retained based on performance/contribution to mission
- **Agile & Responsive:** Workforce can be easily sized, shaped, and deployed to meet changing mission requirements
- **Credible and Trusted:** System assures openness, clarity, accountability and merit principles
- **Fiscally Sound:** Aggregate increases in civilian payroll, at the appropriations level, will conform to OMB fiscal guidance; managers will have flexibility to manage to budget
- **Supporting Infrastructure:** Information Technology support and training and change management plans are available and funded
- **Schedule:** NSPS will be operational and demonstrate success prior to November 2009



Benefits of Proposed NSPS

- Proposed HR system provides greater flexibility to respond effectively to mission needs, while fostering excellence and ensuring accountability
- Employees will have greater opportunity to affect their pay through excellent performance
 - Pay increases based on performance and/or contribution to mission success; clear performance expectations linked to strategic Department goals and objectives
 - Safeguards built into performance appraisal process to promote fairness, transparency, and accountability
- Managers will be able to recruit/retain high quality talent more effectively
 - Ability to offer more competitive, market-sensitive compensation
 - Ability to fill jobs faster with streamlined hiring processes
- Improved reduction in force (RIF) procedures provide for less disruption associated with RIF and greater emphasis on performance as a factor in retention
- Expedited disciplinary and appeals process provides for faster resolution of workplace issues, while preserving due process rights
- New labor relations system recognizes critical national security mission of the Department; balances employee collective bargaining rights with DoD's need to act swiftly to meet mission requirements



NSPS Major Design Elements

Classification

- Pay architecture
- Job descriptions
- Occupational groupings

Pay/Compensation

- Market sensitive pay
- Performance-based pay
- Pay setting

Performance Mgmt

- Setting expectations
- Communicating/feedback
- Appraising performance
- Addressing poor performance

Hiring

- Hiring authorities
- Examining procedures

Reduction in Force

- Procedures for resizing organizations
- Defining competitive areas
- Factors for retention

**NSPS
proposal
changes
rules in these
areas**

Adverse Actions

- Dealing with performance and/or conduct problems
- Procedures for taking actions

Appeals

- Procedures for appealing adverse actions
- MSPB role

Labor Relations

- Collective bargaining rights
- Scope of bargaining
- Bargaining process
- Resolving labor disputes

NSPS Does Not Change

- Merit System Principles
- Rules against prohibited personnel practices
- Veterans Preference
- Benefits (retirement, health, life, etc.)
- Anti-discrimination laws
- Fundamental due process
- Allowances and travel/subsistence expenses
- Training
- Leave and work schedules
- Other personnel systems in law
- Lab Demo organizations (until FY 08)



Highlights of Proposed Regulations

CLASSIFICATION

- Simplified structure replaces General Schedule system
- Positions grouped in broad career groups and pay schedules based on nature of work, mission, career patterns, and competencies
- Pay bands replace GS grades with broad salary ranges, based on level of work (e.g., entry level, full performance level, supervisor)
- More flexibility to assign employees new or different work
- Lengthy, detailed job descriptions no longer needed
- Movement through pay band based primarily on performance, contribution

PAY/COMPENSATION

- New framework to enable to move towards market sensitive pay, with consideration of local market conditions to set pay rates, including a local market supplement
- Performance pay increases based on performance/contribution, rather than longevity; larger increases go to outstanding performers; increases not given to unacceptable performers
- Greater flexibility in setting employee pay upon promotion, reassignment, etc.

PERFORMANCE MANAGEMENT

- Cornerstone of a successful performance-based pay system
- Supervisors work with employees to establish performance goals and expectations, aligned with mission-related goals
- Recognition of conduct (behavior, professional demeanor) as an element of performance
- Ongoing feedback and communication between supervisor and employees
- Intense training planned
- Ratings reflect meaningful distinctions in employee performance (no forced distribution or quotas)
- Formal process to be established for reconsideration of performance ratings

HIRING/STAFFING

- DoD, with OPM, may establish new hiring authorities, tailored to DoD's needs
- No change in veterans' preference
- Government-wide hiring authorities and tools retained
- Direct-hire authority for severe shortage or critical needs vested in Secretary
- Opportunity to improve, streamline examining procedures to speed up the hiring process

Highlights of Proposed Regulations

REDUCTION IN FORCE

- Simplified RIF process provides for greater precision in defining competitive areas and retention lists (based on organization, location, line of business, or other business related factors)
- Preserves veterans' preference
- Flexibility to minimize disruption associated with RIF
- Greater emphasis on performance (over seniority) in retention

APPEALS

- Expedited appeals process, using MSPB administrative judges (AJ), with improved procedures
 - Filing deadline for appeals reduced to 20 days
 - Summary judgment allowed when facts not in dispute
 - Initial decision must be rendered within 90 days
- DoD may review initial decisions within thirty days (or it becomes final); may remand, modify, affirm, or reverse initial decision, based on stringent criteria
- Final DoD decisions (including AJ decisions that become final) may be appealed to full MSPB, which retains limited review authority
- Single burden of proof standard: preponderance
- Mitigation by MSPB permitted only when penalty is wholly without justification
- Judicial review retained

ADVERSE ACTIONS

- Single process for taking adverse actions based on performance and/or conduct
- Streamlined 15-day notice/10-day reply period
- Ensures due process
- Allows Secretary to designate Mandatory Removal Offenses (MROs); development and publication of MROs would include input from employee representatives

LABOR RELATIONS

- Expands non-negotiable management rights (to include determining numbers, types and grades of employees, methods, technology and means of performing work)
- Prohibits bargaining over procedures in exercising core management rights, but management will consult with unions
- DoD and Component-wide issuances (e.g., directives, policies, manuals) non-negotiable
- Limited bargaining over certain management actions; may do so prospectively (post-implementation), with expedited collective bargaining process with impasse resolution
- Nothing delays management's ability to act to accomplish mission
- National Level Bargaining, at the discretion of the Secretary (unions may request such bargaining)
- Establishment of a National Security Labor Relations Board to resolve DoD labor disputes
- Negotiated grievance procedures with arbitration retained; but certain matters excluded



Other Regulatory Provisions

- Coordination with Office of Personnel Management
 - Proposed regulations provide for DoD to coordinate with OPM prior to promulgating certain issuances, where such actions could have impact on other Federal agencies or the civil service as a whole
 - Examples: establishing career groups and pay bands; establishing new qualifications standards; setting maximum pay rates; setting pay ranges and local market supplements
- Continuing Collaboration – process to include unions in further development of NSPS, e.g., development of implementing issuances
 - Provides opportunity for unions to review and comment on draft proposals; and discuss their views with DoD officials prior to issuance
 - Provides that union comments will become part of official record and considered prior to finalization of proposal
- Program Evaluation
 - Formal procedures required by regulations to assess and evaluate NSPS implementation
 - Provides opportunity for unions to participate in process



Who is Affected by NSPS?

- NSPS Human Resources System (Pay, performance, hiring, RIF, adverse actions, and appeals provisions)
 - Vast majority of DoD employees eligible for coverage, but provisions will initially apply only to selected General Schedule (or equivalent) employees in Spiral One organizations (includes certain demonstration project and alternative personnel system employees)
 - Certain categories excluded (e.g., intelligence personnel, Defense Labs)
 - Employees in special pay/classification systems (e.g., wage grade) will be phased in later (not sooner than eighteen months)
- NSPS Labor Relations System
 - Applies to all employees and labor organizations currently covered by Chapter 71 of title 5
 - Will be implemented across entire Department when final regulations are effective

- February 14 publication in Federal Register of proposed NSPS regulations for public comment (30 days)
- Statutory review & comment by employee unions (30 days); concurrent with public comment period
- Full and fair consideration of comments and recommendations
- Meet and confer period with employee unions (minimum of 30 days)
 - Discuss areas of contention; attempt to reach agreement
 - Assistance from Federal Mediation and Conciliation Service
- Notify Congress of outcome of meet and confer (30 days)
- Finalize regulations



Notice and Comment Information

- The proposed NSPS regulations are subject to change, based on consideration of formal comments received during the comment period and the results of the meet and confer process with employee representatives; decisions on NSPS are not final until final regulations are published (targeted for late spring)
- Individuals are encouraged to read the full text of the proposed regulations and provide comments and/or recommendations on the proposal
- The 30-day comment period is the opportunity to submit formal comments on the regulations; comments must be received by March 16, 2005
- Methods for submitting comments:
 - Internet: visit www.cpms.osd.mil/nsps to access the proposed regulations, review background information on NSPS, and formally submit comments via the web
 - U.S. Mail: formal written submissions may be sent to:

Program Executive Office, NSPS
Attn: Brad Bunn
1400 Key Boulevard, Suite B-200
Arlington, Virginia 22209-5144

Sample NSPS Pay Band Structure

Career Group A Pay Schedule 1 (nonsupervisory)

Level 1 - Entry/Developmental

Level 2 – Full Performance Level

Level 3 – Senior Expert

- Levels represent rate ranges associated with ranges of work in career group
- Rates (minimum/maximum) may be set and adjusted based on market factors
- Separate pay schedules may be established for certain occupations, where market or other conditions warrant

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